HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL Nos. 549 AND 550 OF 2007

WRIT APPEAL No. 549 OF 2007

Between

The State of A.P., rep., by its
Secretary, Agricultural Department,
Secretariat Buildings, Hyderabad
and four others

… Appellants

And

M/s. Mahyco Seeds Ltd.,
3-6-666, Mahyco House,
Street No. 10, Himayathnagar,
Hyderabad – 500 029, rep., by its
Authorized Signatory, Mr. Chandrakant
Kulkarni and another

… Respondents

Counsel for the appellants : Government Pleader for Agriculture

Counsel for respondent No.1 : Shri E. Manohar, Senior Advocate assisted by Shri P.V. Sanjay Kumar

WRIT APPEAL No. 550 OF 2007

Between

The State of A.P., rep., by its
Secretary, Agricultural Department,
Secretariat Buildings, Hyderabad
and three others

… Appellants

And

M/s. Krishidhan Seeds Ltd.,
Regd. Office 302, Royal House,
11/3, Ushagunj, Indore – 452001,
Madhya Pradesh, having its branch office
At H.No.5-104/B, Beside China Bazar,
China Tokata, Bowenpally, Secunderabad,
Rep., by its Authorised Signatory
Sri P. Narasimha Reddy and another

… Respondents

Counsel for the appellants : Government Pleader for Agriculture

Counsel for respondent No.1 : Shri E. Manohar, Senior Advocate assisted by Shri P.V. Sanjay Kumar

:: COMMON JUDGMENT::

July 9, 2007

Per G.S. Singhvi, CJ

These appeals are directed against orders dated 14-6-2007 passed by the learned Single Judge in WPMP Nos. 15417 and 15418 of 2007 in Writ Petition No. 12374 of 2007 and WPMP Nos. 15302 and 15303 of 2007 in Writ Petition No. 12275 of 2007 respectively.

A perusal of the record shows that the respondents have filed writ petitions questioning detention/seizure of the stocks of cotton seeds by the non-petitioners (the appellants herein).

After briefly adverting to the pleadings, the learned Single Judge passed the impugned order, the relevant extracts of which are reproduced below:

> "The petitioner is a manufacturer of seeds. For some of the varieties developed and produced by it, it had obtained licence

under the Seeds Control Order, issued under the Essential Commodities Act. It had also developed cotton seeds of BG2 varieties. In the recent past, some controversy arose as to whether the said varieties are covered by the issues, this Court passed an interim order in W.P.No.11433 of 2007, observing that those provisions do not apply to these varieties of seeds, as of now.

The Agricultural Officers, who are designed as Seed Inspectors, have inspected the premises of the dealers of the petitioner on 1-6-2007. They have drawn samples and have issued written directions to the dealers not to dispose of the stock, claiming to be in exercise of powers under the Environment Protection Act (for short "the Act"). The said orders are challenged in this writ petition.

The petitioner contends that the concerned Seed Inspector had violated the provisions of the Act, in several respects. It is urged that they have utilised the forms prescribed under the Seeds Act, without proper application of mind, and the effect of the orders passed therein is to detain or seize the product involved. Learned Senior Counsel Sri E. Manohar, submits that basically the officers, who passed the impugned orders are not conferred with the powers to affect detention or seizure of the product and at any rate, the procedure prescribed under sub-section (4) of Section 10 of the Act was not followed.

On behalf of the respondents, a counter affidavit is filed, at the stage of admission itself. Learned Government Pleader for Agriculture submits that the concerned officers have only drawn samples, and it cannot be said that any seizure of the stock has been effected.

The scope of power conferred on the Seed Inspectors under the provisions of the Act needs to be considered at the hearing of the writ petition. For the present, it is clear that the officer who has directed the petitioner not to dispose of the stock did not obtain any warrant from the concerned court, as required under Section 94 of Cr.P.C. which is made mandatory under sub-section (4) of Section 10 of the Act. Further, under the relevant orders issued by the Government of India, the drawal of the sample is said to be of crops, whereas sample drawn in the instant case is seed. Even if the drawal of sample of seed can be said to be valid, detention of the stock cannot be sustained. The season of sowing is very limited and brief and if the petitioner is disabled from marketing the product, the very purpose of the provision will be defeated.

Hence, the Miscellaneous Petitions are ordered, as prayed for."

On 3-7-2007, the case was adjourned for today with a direction

to the learned Government Pleader to ensure that the reports based on the analysis conducted in the laboratory are produced before the Court.

Today, learned Government Pleader for Agriculture placed before us the analysis reports received from the Seeds Testing Laboratory, Rajendranagar, perusal of which shows that the seeds manufactured by the respondents conform to prescribed standards.

Learned Government Pleader also stated that the detained/seized stocks have already been released.

In view of the above, the appeals are dismissed.

While dismissing the appeals, we deem it proper to make it clear that the writ petitioners shall be free to prosecute the writ petitions notwithstanding the favourable laboratory reports and persuade the learned Single Judge to pass an order for award of damages against the individual officers who may have transgressed the limits of their authority in effecting seizure of the stocks without any tangible reason.

As a sequel to dismissal of the appeals, WAMP Nos. 1061 and 1062 of 2007 respectively filed by the appellants for interim relief are also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 9, 2007

ks